

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SINDY PAOLA TAX CALI, §
§
Plaintiff, §
§
V. § CIVIL ACTION NO. _____
§
LIPMAN-TEXAS, LLC DBA LIPMAN §
PRODUCE, COMBS PRODUCE, AND §
LIPMAN FAMILY FARMS, §
§
Defendant. §

NOTICE OF REMOVAL

Defendant Lipman-Texas, LLC dba Lipman Produce, Combs Produce, and Lipman Family Farms (collectively referred to as “Defendant”), files this Notice of Removal thereby removing to this court the state court action brought by Plaintiff Sindy Paola Tax Cali (hereinafter “Plaintiff”) in the 14th Judicial District Court, Dallas County, Texas.

I.
PROCEDURAL BACKGROUND

1. On February 19, 2021, Plaintiff commenced this action in the 14th Judicial District Court for the County of Dallas, State of Texas, Cause No. DC-21-02162. *See* Exhibit 1, Tab A, Original Petition¹ (hereinafter “Petition”). In her Original Petition, Plaintiff alleges Defendant unlawfully discriminated against her based on her sex and retaliated against her for reporting the same in violation of Chapter 21 of the Texas Labor Code. *Id* at ¶¶ 33-45.

¹ Pursuant to Local Rule 81.1 an index of all documents filed with the state court is attached.

2. Defendant was served on March 8, 2021. *See Exhibit 1, Tab A, Return of Service* for Defendant Lipman-Texas, LLC. This Notice of Removal is filed by Defendant within 30 days of being served.

II.
GROUNDS FOR REMOVAL

A. Diversity Jurisdiction.

3. Federal district courts have original jurisdiction of all civil actions between citizens of different states and where the amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C. § 1332(a)(1). As explained below, there is complete diversity of citizenship between all parties and the amount in controversy exceeds \$75,000.00.

(1) There is Complete Diversity of Citizenship Between the Parties.

4. According to her Petition, Plaintiff is a citizen of Texas, residing in Dallas County, Texas. Exhibit 1, ¶ 5. Thus, Plaintiff is a citizen of the State of Texas for purposes of 28 U.S.C. § 1332.

5. Defendant is a citizen of Florida. Defendant Lipman-Texas, LLC's sole member-owner is Custom-Pak, Inc. Custom-Pak, Inc. is a Florida corporation with its principal place of business in Immokalee, Florida. Consequently, Defendant is not a citizen of Texas.² Because the parties are citizens of different states, there is complete diversity of citizenship between the parties. *See* 28 U.S.C. § 1332(c)(1).

² Although Lipman-Texas, LLC is a proper defendant, its citizenships, for the purpose of establishing diversity of citizenship removal, is ignored because it is an LLC. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080–81 (5th Cir. 2008). Instead, the citizenship of an LLC is determined by the citizenship of its corporate or individual members. *Mullins v. TestAmerica, Inc.*, 564 F.3d 386, 397 (5th Cir. 2009).

(2) The amount in controversy exceeds \$75,000.

6. Plaintiff's Petition expressly states the amount in controversy is more than \$250,000. Exhibit 1, Tab A, Original Petition, Prayer for Relief, ¶ h.

7. Based on the foregoing, Defendant has established that the parties are citizens of different states and the amount or value of Plaintiff's claims exceeds \$75,000. Accordingly, removal is proper pursuant to 28 U.S.C. § 1332(a)(1).

B. The State Court Action Is Properly Removed to the Southern District of Texas, Houston Division.

8. 28 U.S.C. §1441(a) provides a case may be removed to the "district court of the United States for the district and division embracing the place where such action is pending." Plaintiff asserts in her Petition that ". . . the key events related to this litigation occurred in Dallas County." Exhibit 1 at ¶ 3. Consequently, venue is proper in, and the division that embraces the State Court Action is, the United States District Court for the Northern District of Texas, Dallas Division. See 28 U.S.C. §§1441(a), 28 U.S.C. §§ 1391(b), and 124(b)(2); and <http://www.txnd.uscourts.gov/location/dallas>.

9. As required by 28 U.S.C. § 1446(d), a Notice to State Court of Filing of Notice of Removal along with a copy of this Notice of Removal will be contemporaneously filed with the clerk of the 14th Judicial District Court, Dallas County, Texas and served on Plaintiff.

**III.
CONCLUSION AND PRAYER**

In conclusion, there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.00. The case was timely removed by Defendant Lipman-Texas, LLC dba Lipman Produce, Combs Produce, and Lipman Family. Accordingly, this court has jurisdiction over the case and parties pursuant to 28 U.S.C. § 1332(a).

WHEREFORE, Defendant requests that this Court assume full jurisdiction over this matter as provided by law and for such relief to which Defendant is entitled.

Dated: April 2, 2021

Respectfully submitted,

/s/ Charles H. Wilson

Charles H. Wilson
Texas State Bar No. 00797678
Federal ID No. 34581
LITTLER MENDELSON, P.C.
1301 McKinney Street, Suite 1900
Houston, Texas 77010
713.652.4737 (Telephone)
713.456.2481 (Facsimile)
Email: chawilson@littler.com
ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I do hereby certify that on this the 2nd day of April, 2021, a true and correct copy of the foregoing document was duly served via the Court's e-filing system, Certified Mail, Return Receipt Requested, e-mail and/or facsimile, on counsel of record as follows:

Joseph H. Gillespie
GILLESPIE SANFORD LLP
4803 Gaston Avenue
Dallas, Texas 75246 Facsimile: 214.838.0001
Email: joe@gillespiesanford.com

Shana KhaderEQUAL
JUSTICE CENTER
1250 W. Mockingbird Lane, Suite 455
Dallas, Texas 75247
Facsimile: 469.941.0861
Email: skhader@equajusticecenter.org

ATTORNEY FOR PLAINTIFF
CINDY PAOLA TAX CALI

/s/ Charles H. Wilson
Charles H. Wilson